

Message Text

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15

ORIGIN L-03

INFO OCT-01 ARA-10 ISO-00 OPR-02 JUSE-00 SCA-01 /017 R

DRAFTED BY L/SCA:HRGAITHER:EDD

APPROVED BY L/M:HFSHAMWELL

OPR/LS - MR. A. SIERRA (SUBS)

L/T - MR. J. BOYD

ARA/BC - MR. R. DRISCOLL (SUBS)

JUSTICE - MR. M. STEIN

----- 014994

R 082052Z SEP 75

FM SECSTATE WASHDC

TO AMEMBASSY SANTIAGO

UNCLAS STATE 213021

E.O. 11652: N/A

TAGS: PFOR, CI

SUBJECT: EXTRADITION TREATY NEGOTIATIONS -- CHILE.

REF: (A) SANTIAGO 6050; (B) STATE 199455.

1. DEPARTMENT HAS REVIEWED REF (A) AND IS PLEASED WITH PROGRESS.

2. SPECIFIC COMMENTS ARE AS FOLLOWS:

OFFENSE 6: AGREED PER REF (A).

OFFENSE 10: AGREED PER REF (A).

OFFENSE 12: DEPARTMENT AGREES WITH LOGIC ARTEAGA HAS PUT FORWARD. HOWEVER, WE BELIEVE THERE IS A SLIGHT SUBSTANTIVE DIFFERENCE IF THE WORD "INTENCIONALES" OR AN EQUIVA-

LENT IS NOT USED. THE OFFENSE AS WE INTENDED INVOLVES MORE THAN MERE "INTENTIONAL" DAMAGE. "MALICIOUS" IS DEFINED AS UNCLASSIFIED

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"A WRONGFUL ACT INTENTIONALLY DONE WITHOUT LEGAL JUST CAUSE

OR EXCUSE." MERE INTENTIONAL DAMAGE WOULD NOT BE EXTRADIT-
ABLE FROM THE UNITED STATES UNLESS THAT INTENT AMOUNTED TO
WHAT WE CONSIDER MALICIOUS INTENT UNDER OUR SYSTEM.

DEPARTMENT CONTINUES TO SEE A POSSIBILITY FOR DIFFICULTIES
OF INTERPRETATION. FOR EXAMPLE, IT IS POSSIBLE THAT IF,
UNDER CHILEAN LAW, DAMAGE CAUSED BY NEGLIGENCE OR GROSS
NEGLIGENCE (NOT INTENTIONAL) IS AN OFFENSE, THIS WOULD NOT
BE EXTRADITABLE. DEPARTMENT THEREFORE SUGGESTS A RECON-
SIDERATION OF THIS POINT, PARTICULARLY IN LIGHT OF THE USE
OF THE WORD "INTENCIONALES" IN THE U.S.-SPANISH TREATY
(OFFENSE 17) AND THE U.S.-PARAGUAYAN TREATY (OFFENSE 26).

OFFENSE 18: AGREED.

OFFENSE 25: CHILEAN PROPOSAL ACCEPTABLE. PRESUME OFFENSE
WILL READ: "CUALQUIER DELITO CONTRA LAS LEYES RELACION-
ADAS CON QUIEBRA." PLEASE VERIFY.

ARTICLE III -- DEPARTMENT DEFERS TO CHILEAN USAGE OF
"PROPOSICION" IN LIEU OF DEPARTMENT'S PROPOSAL.

-- RE THIRD PARA CHILEAN PROPOSAL 4, "UNO DE
LOS REFERIDOS" IS ACCEPTED -- DEPARTMENT AGREES THIS IS
BETTER DRAFTING THAN WE HAD PROPOSED. KISSINGER

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Message Attributes

Automatic Decaptioning: X
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Draft Date: 08 SEP 1975
Decaption Date: 01 JAN 1960
Decaption Note:
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Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
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Document Unique ID: 00
Drafter: HRGAITHER:EDD
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Handling Restrictions: n/a
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Margaret P. Grafeld
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